

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 7, 2008

D049612 Otay River Constructors v. San Diego Expressway

The order is reversed and the matter is remanded for a determination of appellant's costs and attorney fees. Appellant is entitled to its costs and attorney fees on appeal.

CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: McConnell, P.J., Nares, J.

D051308 In re Ely M., a Juvenile

The order is affirmed. McIntyre, J.; We Concur: Haller, Acting P.J., Aaron, J.

D051698 In re Rangel on Habeas Corpus

The petition is denied.

D047796 Sycamore Ridge Apartments v. Naumann et al.

The petition for rehearing and or/modification of opinion is denied.

D051921 Murphy et al. v. The Superior Court of San Diego County/Oasis MSO, Inc.

The petition is denied.

D048409 Miletich et al. v. Travelers Property Casualty Insurance Company

The petition for rehearing is denied.

D050824 In re V.F. et al., Juveniles

It is ordered that the opinion filed herein on December 7, 2007, be modified. There is no change in judgment.

The petition for rehearing is denied.

D052116 Brooke F. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Thomas F. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case as to Thomas F. is dismissed.

D050821 In re J.H., a Juvenile

The judgments are affirmed. McConnell, P.J.; We Concur: McIntyre, J., Nares, J.

D049481 People v. Knight et al.

The true finding as to Knight on the section 12025, subdivision (b)(2), finding in count 9, concealing a firearm in a vehicle, is reversed and the offense is deemed a misdemeanor. Knight's abstract of judgment is amended to delete the sentence on count 8, vehicle taking, and to state that the term is stayed pursuant to section 654. In all other respects the judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 8, 2008

D051414 People v Davis

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D048631 People v. Aguilar

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D050530 People v. Marquis

The trial court's order denying Marquis's motion to remove the mandatory sex offender registration requirement from the judgment is reversed. The court is instructed to remove the mandatory registration requirement from the judgment, and conduct a new hearing to determine whether Marquis should be required to register as a sex offender under section 290's discretionary provision. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

D046932 Intergulf Development (Kettner) LLC et al. v. Connelly

D048344 Lennar-Intergulf Development (Little Italy) LLC v. Connelly

The above pending appeals are consolidated for disposition.

D046932 Intergulf Development (Kettner) LLC et al. v. Connelly

D048344 Lennar-Intergulf Development (Little Italy) LLC v. Connelly

(Consolidated) The August 2, 2005 order granting respondents' motion for new trial, and the March 13, 2006 order purporting to clarify the August 2, 2005 new trial order, are reversed. The judgment entered on June 3, 2005, is reinstated and is affirmed in its entirety. Appellants are awarded their costs on appeal. Aaron, J.; We Concur: McIntyre, Acting P.J., O'Rourke, J.

D052200 Valentine v. Superior Court of San Diego County/Flowers et al.

The petition for writ of mandate and request for stay have been read and considered by Justices Nares, McDonald and McIntyre. The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 9, 2008

D050716 People v. Broussard

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

D052131 Gamez v. Lepe

Because appellant did not timely pay the filing fee, the appeal is DISMISSED. (Cal. Rules of Court, rule 8.100(c)(3).)

D050545 In re S.G., a Juvenile

The judgment is affirmed. Haller, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D052027 Russell H. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Russell H. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case as to Russell H. is dismissed.

D052153 Rolando U. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Rolando U. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D051767 In re Stephanie F et al., Juveniles

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rules 8.412(d)(1)(A), and 8.416(g). The appeal is dismissed.

D050811 In re Trinity R., a Juvenile

The Court has discovered that appellant's oral argument request was inadvertently misplaced and was not available for the Court's consideration. The Court vacates its opinion filed January 3, 2008, and grants rehearing on its own motion. The matter will be set for oral argument in due course, and the parties will be notified. No further briefing will be allowed.

D051948 Jamison v. Superior Court of San Diego County/Oasis MSO, Inc.

The petition is denied.

D048729 Vargas v. Hickman et al.

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 9, 2008 (Continued)

D048729 Vargas v. Hickman et al.

The request for partial publication of the opinion is denied.

D052012 Bruce v. The Superior Court of San Diego County/People

Let a writ of mandate issue directing the superior court to vacate the order striking the statement of disqualification, reinstate the statement, and remand the matter of Judge Preckel's disqualification to another judge for hearing and determination. We deny Bruce's alternative request that this court order Judge Preckel's recusal. The stay issued on December 5, 2007, is vacated. The opinion will be final immediately as to this court. (Cal. Rules of Court, rule 8.264(b)(3).) Irion, J. We Concur: Nares, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 10, 2008

D051149 In re A.D. et al., Juveniles

The orders terminating reunification services to Cynthia are affirmed. Haller, J.; I Concur: Nares, Acting P.J., McDonald, J.(dissenting) For the reasons set forth in my dissent in In re Jesse W. (2007) 157 Cal.App4th 49, 66, I disagree with the majority opinion's conclusion that Welfare and Institutions Code section 366.21, subdivision (e), allows the court to terminate reunification services to one parent when the court has exercised its discretion to continue the case to the 12-month review hearing. I would reverse the trial court's order denying services to Cynthia.

D051695 Alejandra T. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Irion, J.; We Concur: Nares, Acting P.J., McDonald, J.

D048704 People v. Miller

It is ordered that the opinion filed in this case on December 21, 2007, be modified. There is no change in judgment

The petition for rehearing is denied.

D049452 Hogar v. Community Development Commission of the City of Escondido

The opinion filed December 14, 2007, is modified. No change in Judgment. CERTIFIED FOR PUBLICATION.

D051081 In re Marriage of McCullough

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

D049883 Exarhos v. Exarhos

The order is affirmed. Herbert is entitled to costs on appeal. CERTIFIED FOR PUBLICATION. Aaron, J; We Concur: Haller, Acting P.J., Irion, J.

D051171 People v. Lawrey

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

D050507 Christie v. Krant

The judgment of the trial court is affirmed. Aaron, J.; We Concur: McConnell, P.J., Irion, J.

D052195 Markley v. Superior Court of San Diego County/People

The petition is denied.

D049042 People v. Manley

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Irion, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 11, 2008

D050362 In re Robert M., a Juvenile

The juvenile court orders are affirmed. Huffman, J.; We Concur: McConnell, P.J., McDonald, J.

D048212 People v. Roberts

The no-contact order against appellant is reversed. In all other respects the judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., McIntyre, J.

D051684 In re Fullbright on Habeas Corpus

The petition for a writ of habeas corpus has been read and considered by Justices Benke, Nares and Aaron. We take judicial notice of the direct appeal D048113 and prior petition D051051. In June 2005 a jury found Norman L. Fullbright guilty of first degree murder, possession of forged items, resisting a peace officer, and three counts of battery on a peace officer. The jury also found that Fullbright personally and intentionally discharged a shotgun. On February 21, 2006, the court sentenced Fullbright to a prison term of 50 years to life, plus three years. We affirmed the judgment on August 24, 2007.

Fullbright claims the prosecution never provided defense counsel with the original of a 911 tape made by the victim at the time she was shot and defense counsel was ineffective. The petition is repetitive because the issues were raised and rejected in the prior petition. (*In re Clark* (1993) 5 Cal.4th 750, 765, 767-768.)

The petition is denied

D051477 In re M.S., a Juvenile

The appeal is dismissed. McDonald, J.; We Concur: Huffman, Acting P.J., Irion, J.

D050942 In re V.P., a Juvenile

The orders are affirmed. Nares, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D051278 In re Rolando N., a Juvenile

The judgment is affirmed. Benke, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D051247 In re Isaiah C. et al., Juveniles

The judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., Aaron, J.

D051473 People v. Schmitt

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D051233 In re Schmitt on Habeas Corpus

Petitioner's notice of abandonment of the petition for writ of habeas corpus filed on January 11, 2008, has been accepted by the court. The petition for writ of habeas corpus is hereby dismissed.